



Order Filed on November 10, 2020
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)
DAMIEN N. TANCREDI, ESQ. (DNT 1383)
FLASTER/GREENBERG P.C.
Commerce Center
1810 Chapel Avenue West
Cherry Hill, NJ 08002-4609
(856) 661-2280
Counsel for Debtors in Possession

In Re:

SMS ENTERPRISES, INC. *et al.*,

Debtors.

Honorable Andrew B. Altenburg, Jr.

Chapter: 11

Bankr. No.: 19-21332 (ABA) (Jointly
Administered)

Hearing Date: November 2, 2020

ORDER GRANTING DEBTORS' MOTION TO DISMISS

The relief set forth on the following page, numbered two (2) to three (3), is hereby ORDERED.

DATED: November 10, 2020



Honorable Andrew B. Altenburg, Jr.
United States Bankruptcy Court

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Debtor: SMS ENTERPRISES, INC. *et al.*

Case No.: 19-21332 (JNP)

ORDER GRANTING DEBTORS' MOTION TO DISMISS

Upon Consideration of the Debtors' Motion¹ to Dismiss; and it appears that the Court has jurisdiction over this matter; and for good cause shown it is ORDERED;

1. The Motion is GRANTED.

2. The Debtors are authorized and directed to pay all administrative expenses due to the Debtors' professionals, Flaster/Greenberg, P.C. and WithumSmith+Brown, P.C. that have or will be approved by order of this Court (the "Administrative Expenses").

3. The Debtors are authorized to pay the amount of \$19,000.00 in trust to Flaster/Greenberg, P.C. to be allocated in the following matter: (i) \$5,000 to be used in legal fees and expenses payable to Flaster/Greenberg, P.C. in order to wind up these cases and file appropriate dissolution proceedings; and (ii) \$14,000.00 to be used in fees and expenses payable to WithumSmith+Brown, P.C. in order to file any remaining monthly operating reports, tax returns, and other documents needed to effectuate the dissolution of the Debtors (the "Reserves"). The fees and expenses described in this paragraph shall be payable to Flaster/Greenberg, P.C. and WithumSmith+Brown, P.C. without further order of the Court.

4. The Debtors are authorized and directed to pay all quarterly fees payable to the Office of the United States Trustee when they come due (the "US Trustee Fees").

5. The Debtors are authorized and directed to pay the State of New Jersey on account of its priority tax claim to the extent such funds remain in the Debtors' estates following payment of administrative expenses and US Trustee Fees (the "NJ Claims").

¹ Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Motion.

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Debtor: SMS ENTERPRISES, INC. *et al.*

Case No.: 19-21332 (JNP)

ORDER GRANTING DEBTORS' MOTION TO DISMISS

6. The Debtors are authorized and directed to pay OnDeck Capital, Inc. any funds remaining in the Debtors' estates after the payment of the Administrative Expenses, the Reserves, and the US Trustee Fees (the "OnDeck Payment").

7. Upon making the payment of the Administrative Expenses, the Reserve, the NJ Payments, the OnDeck Payment, and after filing all necessary monthly operating reports, the Debtors shall file a certification with this Court affirming that such payments were made in accordance with the terms of this Order (the "Certification").

8. Upon filing of the Certification, the Debtors' cases are hereby dismissed without further Order of the Court.

In re:
SMS Enterprises Inc.
Debtor(s)

Case No. 19-21332-ABA
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0312-1
Date Rcvd: Nov 10, 2020

User: admin
Form ID: pdf903

Page 1 of 2
Total Noticed: 2

The following symbols are used throughout this certificate:

| Symbol | Definition |
|--------|--|
| + | Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP. |

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Nov 12, 2020:

| Recip ID | Recipient Name and Address |
|----------|--|
| db | + SMS Enterprises Inc., P.O. Box 588, Marlton, NJ 08053-0588 |
| aty | + Flaster/Greenberg P.C., Commerce Centr, 1810 Chapel Avenue West, Third Floor, Cherry Hill, NJ 08002-4606 |

TOTAL: 2

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Nov 12, 2020

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on November 10, 2020 at the address(es) listed below:

| Name | Email Address |
|--------------------------|---|
| Damien Nicholas Tancredi | on behalf of Debtor ETA Enterprises Inc. damien.tancredi@flastergreenberg.com, damien.tancredi@ecf.inforuptcy.com |
| Damien Nicholas Tancredi | on behalf of Debtor SPS Enterprises Inc. damien.tancredi@flastergreenberg.com, damien.tancredi@ecf.inforuptcy.com |
| Damien Nicholas Tancredi | on behalf of Accountant Michael Yarrow damien.tancredi@flastergreenberg.com damien.tancredi@ecf.inforuptcy.com |
| Damien Nicholas Tancredi | on behalf of Debtor SMS Enterprises Inc. damien.tancredi@flastergreenberg.com damien.tancredi@ecf.inforuptcy.com |
| Daniel P. Bernstein | on behalf of Creditor Covenant Bank d.p.bernstein1@gmail.com |
| David Banks | |

District/off: 0312-1

User: admin

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Date Rcvd: Nov 10, 2020

Form ID: pdf903

Total Noticed: 2

on behalf of Creditor Covenant Bank bbwlaw@yahoo.com

Denise E. Carlon

on behalf of Creditor Toyota Lease Trust dcarlon@kmlawgroup.com bkgroup@kmlawgroup.com

E. Richard Dressel

on behalf of Debtor SMS Enterprises Inc. rdressel@lexnovalaw.com

E. Richard Dressel

on behalf of Debtor SPS Enterprises Inc. rdressel@lexnovalaw.com

E. Richard Dressel

on behalf of Debtor ETA Enterprises Inc. rdressel@lexnovalaw.com

Gavin Stewart

on behalf of Creditor Toyota Motor Credit Corporation as servicer for Toyota Lease Trust bk@stewartlegalgroup.com

Gavin Stewart

on behalf of Creditor Toyota Lease Trust bk@stewartlegalgroup.com

Jay B Feldman

on behalf of Creditor Gary Peart jay@leighton-law.com anna@leighton-law.com

Jeffrey M. Sponder

on behalf of U.S. Trustee U.S. Trustee jeffrey.m.sponder@usdoj.gov jeffrey.m.sponder@usdoj.gov

Jeffrey M. Sponder

on behalf of Debtor SPS Enterprises Inc. jeffrey.m.sponder@usdoj.gov, jeffrey.m.sponder@usdoj.gov

Jeffrey N. Medio

on behalf of Creditor Vineland Municipal Utilites jmedio@mediolawfirm.com

Judith Carol Arnold

on behalf of Creditor Buena Realty LLC f/k/a Mr. and Mrs. John Caselli jarnold@grucciopepper.com, jmorvay@grucciopepper.com

Judith Carol Arnold

on behalf of Creditor Maintree Shopping Center L.P., Landlord jarnold@grucciopepper.com, jmorvay@grucciopepper.com

Julie M. Murphy

on behalf of Creditor Maintree Shopping Center L.P. jmmurphy@stradley.com

Kevin Joseph Bloom

on behalf of Creditor Maines Paper & Food Inc. kbloom@hhk.com

Paul W. Verner

on behalf of Debtor ETA Enterprises Inc. pwverner@vernerlaw.com

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Paul W. Verner

on behalf of Attorney Paul William Verner pwverner@vernerlaw.com

Raymond M. Patella

on behalf of Interested Party Cape Atlantic Food Services LLC rpatella@kraemerburns.com

Richard J. Gerace

on behalf of Debtor SMS Enterprises Inc. rgerace14@comcast.net

Stephen McNally

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Thomas R. Dominczyk

on behalf of Creditor Fox Capital Group Inc. tdominczyk@mauricewutscher.com, thomas-dominczyk-5025@ecf.pacerpro.com

U.S. Trustee

USTPRegion03.NE.ECF@usdoj.gov

TOTAL: 29